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Board Case No. 20-107

CONSENT AGREEMENT FOR SURRENDER OF MASSAGE THERAPY LICENSE

Holder of License No. MT-20559
As a Massage Therapist
In the State of Arizona

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and the responsibilities of the Arizona State Board of Massage Therapy (“Board”) under A.R.S. § 32-4201, *et. seq.*, Feng Ba (“Respondent”), holder of Massage Therapist License Number MT-20559 in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order (“Consent Agreement”) as a final disposition of this matter.

RECITALS

1. Respondent has read and understands this Consent Agreement and has had the opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to discuss this Consent Agreement with an attorney.

2. Respondent understands that Respondent has a right to a public administrative hearing concerning this matter, at which hearing Respondent could present evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondent knowingly and voluntarily relinquishes all right to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters set forth herein.

3. Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

1 4. Respondent understands that this Consent Agreement or any part of the
2 agreement may be considered in any future disciplinary action by the Board against
3 Respondent.

4 5. Respondent understands this Consent Agreement deals with Board case
5 number 20-107 involving allegations that Respondent engaged in conduct that would
6 subject Respondent to discipline under the Board's statutes and rules. The investigation
7 into these allegations against Respondent shall be concluded upon the Board's adoption
8 of this Consent Agreement.

9 6. Respondent understands that this Consent Agreement does not constitute a
10 dismissal or resolution of any other matters currently pending before the Board, if any,
11 and does not constitute any waiver, express or implied, of the Board's statutory authority
12 or jurisdiction regarding any other pending or future investigation, action or proceeding.

13 7. Notwithstanding any language in this Consent Agreement and Order, this
14 Consent Agreement and Order does not preclude in any way any other State agency or
15 officer or political subdivision of this state from instituting proceedings, investigating
16 claims, or taking legal action as may be appropriate now or in the future relating to this
17 matter or other matters concerning Respondent, including but not limited to, violations of
18 Arizona's Consumer Fraud Act. Respondent acknowledges that, other than with respect to
19 the Board, this Consent Agreement and Order makes no representations, implied or
20 otherwise, about the views or intended actions of any other state agency or officer or
21 political subdivisions of the State relating to this matter or other matters concerning
22 Respondent.

23 8. Respondent acknowledges and agrees that, upon signing this Consent
24 Agreement and returning this document to the Board's Executive Director, Respondent
25 may not revoke Respondent's acceptance of the Consent Agreement or make any
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1 modifications to the document regardless of whether the Consent Agreement has been
2 signed by the Executive Director. Any modification to this original document is
3 ineffective and void unless mutually agreed by the parties in writing.

4 9. This Consent Agreement is effective only when signed by the Executive
5 Director on behalf of the Board.

6 10. If a court of competent jurisdiction rules that any part of this Consent
7 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
8 shall remain in full force and effect.

9 11. Respondent understands that this Consent Agreement is a public record that
10 may be publicly disseminated as a formal action of the Board and may be reported as
11 required by law to the National Practitioner Data Bank or other such databases.

12 12. Respondent agrees that the Board will adopt the following Findings of Fact,
13 Conclusions of Law and Order.

14
15 ACCEPTED AND AGREED BY RESPONDENT

16
17 FENG BA

Dated: 11-04-2020

18 Feng Ba

19 **FINDINGS OF FACT**

20 1. The Board is the duly constituted authority for licensing and regulating the
21 practice of Massage Therapy in the State of Arizona.

22 2. Respondent is the holder of license number MT-20559 to practice as a
23 Massage Therapist in the State of Arizona.

24 3 On August 4, 2020, the Board received a complaint from the Federation of
25 State Massage Therapy Boards (FSMTB). The complaint indicated that a fraud
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1 investigation was initiated to look into several instances of possible fraud in connection
2 with the Massage & Bodywork Licensing Examination (MBLEx). The result of the
3 FSMTB investigation found that Respondent violated an examination policy regarding
4 the MBLEx, which was taken June 30, 2014.

5 4. As a result of its investigation and findings, the FSMTB invalidated the
6 MBLEx results for Respondent.

7 5. Respondent received her license through a reciprocity application.

8 6. Board statute requires that licensees for reciprocity hold a current
9 certification from the National Certification Board for therapeutic massage and
10 bodywork. FMSTB is the relevant National Certification Board for Respondent.

11 7. As of July 31, 2020, Respondent no longer holds a valid certification from
12 FMSTB due to violations of examination policies.

13 CONCLUSIONS OF LAW

14 1. The Board possesses jurisdiction over the subject matter and over
15 Respondent pursuant to A.R.S. § 32-4201 *et seq.*

16 2. The Board possesses statutory authority to enter into a consent agreement
17 with a massage therapist and accept the surrender of an active license from a massage
18 therapist who admits to having committed an act, which would subject the licensee to
19 discipline under the Board's statutes or rules. *See* A.R.S. § 32-4254(O)(2).

20 3. The conduct and circumstances described above constitute grounds for
21 discipline pursuant to A.R.S. § 32-4253 (A)(1), which states, "Failing to meet or maintain
22 the requirements for an original license under section 32-4222, subsection A."

23 4. The conduct and circumstances described above constitute grounds for
24 discipline pursuant to A.R.S. § 32-4253(A)(2), which states, "Using fraud, deceit or
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1 misrepresentation in obtaining or attempting to obtain a license or the renewal or
2 reinstatement of a license.”

3 5. The conduct and circumstances described above constitute grounds for
4 discipline pursuant to A.R.S. § 32-4253(A)(7), which states, “Having a license or
5 certificate revoked or suspended or any other disciplinary action taken or an application
6 for licensure or certification refused, revoked, or suspended by the proper authorities of
7 another state, territory or country.”

8 6. The conduct and circumstances described above constitute grounds for
9 discipline pursuant to A.R.S. § 32-4253(A)(16), which states, “failing to adhere to the
10 recognized standards and ethics of the profession.”

11 7. The conduct and circumstances described above constitute grounds for
12 discipline pursuant to A.R.S. § 32-4253(A)(23), which states, “violating Board statutes,
13 rules, or orders.”

14 **ORDER**

15 IT IS HEREBY ORDERED that License Number MT-20559 issued to Feng Ba to
16 practice as a massage therapist in the State of Arizona is hereby SURRENDERED.

17 DATED this 1st day of December, 2020.

18
19 ARIZONA STATE BOARD OF MASSAGE
THERAPY

20 (Seal)

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22
23 By:

24 Thomas Augherton
25 Executive Director
26


1 ORIGINAL OF THE FORGOING FILED
2 this _1st day of December_2020 with:

3 Arizona State Board of Massage Therapy
4 1740 West Adams, Suite 3401
Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED/E-MAILED
6 this _1st day of December_2020 to:

7 Feng Ba
8 18650 North 91st Avenue, #5101
Peoria, Arizona 85382
Respondent

9 Seamus Monaghan, AAG
10 2005 North Central Avenue, SGD/LES
Phoenix, Arizona 85004
Attorney for the Board

11 By: 
12 # 9056532